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STATE OF CALIFORNIA

Energy Resources
Conservation and Development Commission

In the Matter of:

Application for Certification for the
BLYTHE ENERGY PROJECT II

DOCKET NO. 02-AFC-1

FLOYD P. WOLFE'S REPLY BRIEF

Floyd P. Wolfe (Wolfe) hereby files his Reply Brief in support of his opposition to the certification of the Blythe Energy Project II.

INTRODUCTION

Blythe Airport is an uncontrolled field. That is to say there is no control tower, and airplanes can come and go without radio contact. (8/2/05 RT at 191). Fifty (50) percent of all flights into Blythe Airport are by inexperienced pilots in training. (8/2/05 RT at 191).

On July 18, 2002 the Airport Land Use Commission made an advisory determination that Blythe Energy Project would be inconsistent with the comprehensive land use plan. (8/2/05 RT at 170). Notwithstanding the recommendation, the city issued an override in the form of resolution No. 04897. One of the conditions of the override is that Blythe II change the left-hand turn traffic pattern approach to a right-hand turn traffic pattern approach.

Mr. Looper, the project Director of Caithness Blythe II, has stipulated that the Blythe II power plant, even if it is licensed and built, will not operate unless and until 1) the left-hand turn pattern is changed to a right-hand turn pattern; 2) runway 1-7 is designated as a calm wind

runway; and 3) warning notices be given to pilots via an ASOS system. (8/2/05 RT at 13-14, 133-134).

FAA approval of the ASOS is required before it may be implemented. (8/2/05 RT at 54). The FAA has not agreed to implement the ASOS notification system at Blythe Airport. (8/2/05 RT at 52). Additionally, it should be noted and the record should be augmented to reflect that the FAA subsequently denied application for inclusion of any recording on the ASOS, as confirmed by Gary Luff, representative of Potomac Aviation Technology, and also confirmed by the National Weather Service.

Also problematic is that the Applicant has not applied to the FAA for a change from left-hand pattern to right-hand pattern, and will not do so unless and until Blythe II is licensed. (8/2/05 RT at 68-69).

Clearly, building a multi-million dollar plant before the conditions have been satisfied, is not feasible. Hearing Officer Shean correctly noted: "Obviously if you get the plant on the ground and you say, well, we'll be subject to a condition that we won't operate till this happens, and if it doesn't happen I think we all know you'll be back to the Commission saying, we'd like to operate our multi-million-dollar plant, and now let's figure out something that's a different mitigation." (8/2/05 RT at 55).

THE PROPOSED PLANT PRESENTS A DANGER TO AIRCRAFT

The proposed plant presents a danger to aircraft. The danger is exacerbated by the existence of Blythe Power I.

It is undisputed that the cooling towers at the plant proposed by the Applicant will create an updraft that would affect overflight, and that the updraft cannot be mitigated. (8/2/05 RT at 58).

The Applicant's expert, Dr. Morris, conceded in testimony that aircraft should not fly over proposed Blythe Plant #2. (8/2/05 RT at 42-44). Dr. Morris testified that aircraft with one wing in the plume will get an updraft on the wing which will cause the aircraft to roll. (8/2/05 RT at 23-24). Additionally, if you have an updraft on the aircraft, and the angle of attack is large enough, the aircraft will stall. (8/2/05 RT at 25-26).

Unfortunately, the current left-hand traffic pattern will take a pilot directly over the proposed Blythe II site on base turn, and over the Blythe I site on both base and base to final approach. (8/2/05 RT at 192). As such, and due to the danger presented to aircraft, the

Applicant has stipulated to the imposition of purported mitigating conditions. However, even the recommended changes would not eliminate flight over the proposed plant. People are used to flying left hand pattern into Blythe. (8/2/05 RT at 152-153). Additionally, changing to right hand pattern turning base to final approach would place a high performance aircraft over the cooling towers, during which period the plane would be on its side. (8/2/05 RT at 152-153). It would also push more planes over Blythe I. (8/2/05 RT at 154-155).

Although the testimony with regard to the "natural ability of an inexperienced pilot to recover" from an unexpected updraft differed among the experts, it was not disputed by any expert that a confused pilot who makes the wrong decision and points the plane in the wrong direction will have approximately two (2) seconds to recover before he hits the ground. (8/2/05 RT at 200). Unfortunately, the amount of time for the inexperienced and experienced pilot, is insufficient to avoid catastrophe. Dr. Morris conceded that, "it takes a while to recover... Unless you do everything you can to accelerate the stall or do the wrong things, certainly anybody can crash an airplane..." (8/2/05 RT at 42). And, "instinctively if you drop a wing you instinctively want to counter that with a roll in the opposite direction. So, panicking, certainly you might get startled." (8/2/05 RT at 49).

Accelerating the stall, as suggested by Dr. Morris, would mean pointing the nose to the ground to gain air speed. To suggest that an inexperienced pilot would, as a natural reflex point the nose to the ground when he is two (2) seconds from impact, requires a strained imagination.

While Dr. Morris (who is not a pilot) testified it was not difficult to recover from turbulence experienced during "his" flight tests (8/2/05 RT at 45), the conditions were not identical to those that would be experienced by student pilots. First, the tests conducted by Dr. Morris' staff were conducted in a twin engine Aztec. (8/2/05 RT at 46-47). Student pilots, however, would be flying in a small aircraft, such as a Cessna. (8/2/05 RT at 47). The control responses of a small aircraft, are slower. (8/2/05 RT at 207). Consequently, the ability to recover experienced in the Aztec would not be the same in a Cessna flown by a novice.

THE PROPOSED PLANT WOULD INTERFERE WITH THE ZONE OF APPROACH IN VIOLATION OF PUBLIC UTILITIES CODE SECTION 21403

Additionally, the interference with the approach violates California law. Public Utilities Code Section 21403(c) provides:

"The right of flight in aircraft includes the right of safe access to public airports, which includes the right of flight within the zone of approach of any public airport without restriction or hazard. The zone of approach of an airport shall conform to the specifications of Part 77 of the Federal Aviation Regulations of the Federal Aviation Administration, Department of Transportation."

Blythe Airport is a public airport. As such, licensing a plant that all parties concede would disturb flight within the zone of approach would be illegal. Mitigation by imposing conditions that would hopefully cause aircraft to avoid the cooling towers would constitute a restriction on flight within the meaning of Public Utilities Code Section 21403(c).

THE MODELS AND OPINIONS OFFERED BY APPLICANT'S EXPERTS ARE NOT ACCURATE OR CREDIBLE

Dr. Morris testified that the conditions experienced on November 3, 2004, reflected the worst-case conditions. (8/2/05 RT at 28). Dr. Morris testified he could not explain why certain expert pilots considered the turbulence to be severe, when Dr. Morris himself, who did not actually experience any flight over the plant, believed the turbulence was moderate. (8/2/05 RT at 93-95). However, it was elicited through testimony that the possible variation in "perceived" turbulence was caused in part by fluctuations in output at the plant.

Dr. Morris testified that he could not comment on what the plant was doing during the testing that occurred on November 3, 2004; he had no idea (8/2/05 RT at 94). On the other hand, Mr. Walters testified that the plant was not operating at full load on the date in question. As such, one of the most vital and necessary factors to a determination of affect on overflight was omitted from the information upon which Dr. Morris rendered his opinion. Certainly, the omission could account for the differences in perception of turbulence among the experts, and at a minimum said testimony confirms that the conditions of overflight on November 3, 2004, were not the "worst case conditions," as suggested by Dr. Morris.

Mr. Kosky estimated plume velocities. In so doing, he assumed an 85 degree day. (8/2/05 RT at 116). As a result, his assumptions did not reveal the worst case conditions for the cooling tower. (8/2/05 RT at 186). There is a consensus that the conditions caused by the cooling towers are worse on cooler days. Indeed, Mr. Kosky admits that turbulence is worse with a greater temperature differential between the plume and the ambient temperature. (8/2/05 RT at 117-118).

Additionally, Mr. Kosky failed to create a model of the combined effect of more than one cooling tower. Instead, the model concerned an individual cooling tower cell and HSRG stack, without any adjustment for temperature gradients. (8/2/05 RT at 121-122). It is undisputed that it is mass and temperature combined that create the effect of buoyancy and mass and velocity that create the momentum. (8/2/05 RT at 187). Consequently, buoyancy is extremely large when you combine all the cells, which Kosky's model failed to do. As such, the model does not accurately predict velocity.

CONCLUSION

The proposed plant would pose an extreme danger to aircraft. As such, the application should be denied. However, if the application is granted, the license should be conditioned on the satisfaction of each and every condition recited by Mr. Looper at Pages 13 and 14 of the August 2, 2005 transcript, before any construction takes place, and by a date certain. If such occurs, it being that the request for ASOS has been denied, the only method to warn all pilots is through the implementation of the UNICOM controlled by intervenor Floyd P. Wolfe. Potomac Aviation has the ability to add a recording to the UNICOM that would notify all pilots of the dangerous condition in real time. Such would also inform pilots to fly around Blythe I and Blythe II, and to approach at a 15 degree angle from the north to land at runway 26. Such could be implemented at a cost that is less than 50% of any proposed alternative.

Respectfully submitted,

Dated: September 6, 2005

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STATE OF CALIFORNIA
State Energy Resources
Conservation and Development Committee

In the Matter of:

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ENERGY PROJECT II

Docket No. 02-AFC-1

PROOF OF SERVICE

I, Veronica MacMillan, declare that on September 6, 2005, I deposited copies of the attached FLOYD P. WOLFE'S REPLY BRIEF in the United States mail at Palm Desert, California, with first class postage thereon fully prepaid, and via email, addressed to the following:

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I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this 6th day of September, 2005, at Palm Desert, California.

Veronica MacMillan